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August 16, 2021

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EDWARD BENNETT WILLIAMS (1920-1988)
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VIA ECF

The Honorable Louis L. Stanton
United States District Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

Re: *American Broadcasting Companies, Inc., v. Goodfriend*, No. 19-cv-7136-LLS

Dear Judge Stanton:

We represent Plaintiffs in the above-captioned matter. According to information available on the Court's public ECF website, there are 16 jury trials, ten of which are criminal, that are already set to take place during the first two weeks of November—the same time period that the parties had requested for trial in this action. The ECF website does not include this case among the 16 jury trials now scheduled. We also understand that the current centralized calendaring system is anticipated to end beginning in January 2022, but regardless of when the transition to individualized calendaring takes place, it appears that there would be greater certainty with a 2022 trial date; per the public ECF website, there are thus far only three jury trials (all criminal) set for the first full week of February and two jury trials (both criminal) set for the second full week of February.

In light of the high degree of uncertainty surrounding the possibility of a November trial, Plaintiffs believe that it would serve the interests of the parties, witnesses, and the Court if we could set a 2022 date on the trial calendar. Plaintiffs have every interest in getting to trial and securing a judgment as quickly as possible, as Defendants continue to launch their service in more locations, but Plaintiffs are aware that the Court is unavailable in December, and a trial date in January would be challenging for counsel and witnesses, many of whom are planning to be with their families for the holidays during December, rather than preparing for trial. Thus, for the aforementioned reasons, we request that, to the extent it is convenient for the Court, the trial date be set for early February 2022.

Moving the date now would permit the parties and their witnesses to re-align their schedules and pre-trial plans, rather than continue to proceed with pre-trial preparations for what at least appears to be an unlikely and at best uncertain November trial date. Given the pandemic resurgence, we also hope that February will be a better environment for the parties as well as the

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Court and the jurors. Of course we could wait for a few weeks and see if anything changes, but that appears to present the worst of all worlds— given the 16 cases ahead of us, we are unlikely to achieve any certainty about November, and we would lose the opportunity to firm up a date in early 2022, as other litigants will surely seek firm trial dates as well.

Defendants have informed us that they do not agree with our request.

Currently the Court has a Final Pretrial Conference scheduled for October 15, 2021, at 12:30 p.m., and the Final Pre-Trial Order is due to the Court on September 20, 2021. ECF No. 242. If the trial date is scheduled for early February, we would also request that the date for the final pretrial conference be moved to January, and the date for submitting the Pre-Trial Order be moved to December or a date convenient for the Court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gerson A. Zweifach', with a stylized, cursive script.

Gerson A. Zweifach

cc: All Counsel of Record via ECF